

Service Date: May 7, 1997

DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

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IN THE MATTER of the Application of	)	UTILITY DIVISION
LINDA VISTA WATER COMPANY	)	
for Approval of Initial Rates and Authority	)	DOCKET NO. D97.4.62
to Increase Rates and Charges	)	
for Water Services in Missoula, Montana.	)	ORDER NO. 5979

**PROCEDURAL ORDER**

Background

On April 9, 1997 the Montana Public Service Commission (PSC or Commission) received a request from Linda Vista Water Company (Linda Vista) for approval of rate increases for the water services Linda Vista provides to its customers in Missoula, Montana.

The Commission has delegated to Commission Staff the duty to set a procedural schedule and issue a Procedural Order. The Commission sets forth a firm schedule in this Procedural Order. The Commission staff may amend the procedural schedule when the amendment does not alter the scheduled hearing date. The Commission will reconsider the date set for hearing only upon good cause shown.

The Commission issues the following Procedural Order and Schedule:

1. Under the authority of ARM 38.2.2702, the Commission enters this Order setting forth the procedure and schedule to be followed in Docket No. D97.4.62. This Order is effective immediately and remains effective until modified by the Commission.

**SCHEDULE**

2. All dates listed in the following schedule are **receipt dates** (filing and service) unless otherwise specified. Dates prior to the service date of this Order are for reference purposes only. Upon a determination that parties have not addressed concerns raised in the Commission staff review of the application, the Commission staff may identify the additional issue(s) and require testimony. At that time the Commission may set a supplementary procedural schedule.

- (a) April 8, 1997: Application received by Commission.
  - (b) May 7, 1997: Notice of Application and Intervention Deadline issued by Commission. Procedural Order issued by Commission.
  - (c) May 23, 1997: Final day for intervention as a matter of right.
  - (d) June 6, 1997: Final day for written discovery (includes data requests) from staff and intervenors to Linda Vista on application and prefiled testimony.
  - (e) June 20, 1997: Final day for Linda Vista to respond to discovery in (2)(d).
  - (f) July 11, 1997: Final day for testimony from intervenors.
  - (g) July 25, 1997: Final day for written discovery from Linda Vista to intervenors; final day for intervenor discovery to parties other than Linda Vista.
  - (h) August 8, 1997: Final day for intervenors to respond to written discovery from Linda Vista and other intervenors.
  - (i) August 18, 1997: Final day for rebuttal testimony from Linda Vista and cross-rebuttal from intervenors to testimony filed pursuant to 2(f).
  - (j) August 28, 1997: Final day for written discovery directed to all parties filing rebuttal testimony pursuant to 2(i), limited to material directly related to rebuttal testimony
  - (k) September 8, 1997: Final day for parties to respond to written discovery on rebuttal testimony filed pursuant to 2(j).
  - (l) September 12, 1997: Final day for prehearing memoranda filed by all parties. Staff shall file a limited prehearing memorandum.
  - (m) September 17, 1997: Hearing commences.
3. In addition, the Commission may schedule prehearing conferences.

## PROCEDURE

### General

4. The procedure governing this Docket is set forth in applicable provisions of (a) Title 69, Chapter 3, MCA; (b) Title 2, Chapter 4, MCA, Montana Administrative Procedures Act (MAPA); and (c) ARM Title 38, Chapter 2, procedural rules.

### Service and Filing

5. Copies of all pleadings, motions, discovery requests, discovery responses, prefiled testimony, and briefs shall be filed with the Commission and served on all parties (Linda Vista and all intervenors). Parties shall file with the Commission an original and ten copies of motions, testimony, briefs and documents directed to the Commission. Service upon the parties shall be upon each party's attorney of record, if applicable, and such other individuals as may be reasonably designated by the attorney of record.

6. The Commission recommends the following guidelines where data processing and computer equipment are available:

- (1) Data may be provided on 3 ½ " IBM/PC Compatible computer diskettes;
- (2) Spreadsheets may be provided in Lotus 1-2-3 Version 3.1 DOS compatible format;
- (3) Text may be provided in Word Perfect Version 5.1, 6.0 or 6.1 compatible format.

7. Testimony, exhibits and data requests/responses should be provided both electronically and in hard copy. Briefs, motions and any correspondence normally provided to the Service List should be made available electronically on request. Parties to this proceeding should attempt to provide rate filing material in electronic form to the extent it is practical and not cost-prohibitive.

### Intervention

8. Parties seeking to intervene must file a Petition to Intervene with the Commission. The Commission deems intervention granted as a matter of right upon a timely filing pursuant to ¶ 2(c), subject to any later ruling on standing. In a request for late intervention, the petitioner must (a) identify the general position that the intervenor will take if the intervention is granted; (b) demonstrate a legal interest directly affected by this Docket; (c) demonstrate that the intervention, if granted, will not delay or prejudice the proceeding in this Docket; and (d) show good cause why the request for intervention was not timely filed. Late intervention will be effective only upon action of the Commission.

### Discovery

9. The term "discovery" includes all forms of discovery authorized by the Montana Rules of Civil Procedure, as well as data requests. The Commission urges all parties to conduct

discovery primarily through the use of data requests. The dates set forth in the Procedural Schedule, ¶ 2, are *deadlines* for filing.

10. The Commission directs all parties to prepare data requests according to the following guidelines:

(a) Parties must assign a number to their data requests (e.g., Linda Vista-001). Request numbers must be consecutive regardless of the party to whom the request is directed (e.g., the PSC might direct PSC-001 through 008 to Linda Vista and PSC-009 through 016 to MCC).

(b) All data requests must include at the beginning of each request a description of five words or less explaining the subject of the data request. Other identifying information, such as the witness to whom the request is submitted, exhibit number and page number, etc., may be included in addition to, but not in lieu of, the subject of the request. This requirement will help to identify all data requests and responses addressing a particular subject or group of subjects. Subject descriptions will obviously vary from one party to another. However, each party should attempt to keep descriptions consistent from one request to another.

(c) Multi-part requests may be used, each part denoted by a lower case letter (a, b, c, d, and e). Requests must be limited to five parts (a-e), without any sub-parts. If additional parts are necessary, additional requests must be made. A single part request should be denoted by the request number only.

(d) Examples of acceptable data requests are as follows:

PSC-500      RE:    Return on Equity  
                      Witness - Doe, Page JQD-4, Lines 13-15.

Please provide an analysis of hypothetical debt/equity structure.

PSC-501      RE:    Return on Equity  
                      Witness - Doe, Page JQD-14, Lines 11-14.

- a.      What is the cost of equity and how is it derived?
- b.      What portion of the equity capital is transferred, or imputed, to debt for ratemaking purposes?

11. Any party dissatisfied with the written discovery or data requests directed to that party or with responses to its discovery or data requests has five days from receipt to file objections to the request(s) or responses. Notice of the objection(s) shall be served upon the Commission and on all parties. The Commission may dispose of objections by prompt ruling or may schedule argument. Failure to timely object will be deemed acceptance of the request. Parties should attempt to resolve discovery objections informally, if possible.

12. The Commission will act either to sustain or overrule the objection(s) to responses, and if sustaining, set a deadline for a satisfactory response. Submission of written discovery after the deadline established will be allowed by leave of the Commission only. The Commission will not grant requests without a showing of good cause as to why the request was not submitted within the time period allowed.

13. Unless excused by the Commission, failure by a party to answer data requests or other discovery from any party may result in Commission action: (a) refusing to allow the failing party to support or oppose related claims; (b) prohibiting introduction of related matters in evidence; (c) striking pleadings, testimony, or parts thereof; (d) staying further proceedings until the request is satisfied; or (e) dismissing all or part of the case, defense, or proceeding.

#### Testimony and Evidence

14. At hearing, the Commission will adopt into the record all prefiled direct, answer, and rebuttal testimony (including additional issues) upon motion of the proponent, without the witness reading the testimony into the record. The testimony will be an exhibit and not otherwise entered into the transcript.

15. All proposed exhibits and prefiled written testimony shall be marked for the purposes of identification prior to the start of the hearing. Parties shall arrange in advance with the court reporter for the preferred manner of identifying exhibits.

16. When cross-examination is based on a document not previously filed with the Commission, copies of the document must be made available to the Commissioners, parties, and staff, unless good cause is shown why copies are not available. Parties introducing data requests or other discovery must have copies of each request and response available at the hearing for the court reporter, each Commissioner, the Commission staff and all parties. This last requirement may be

waived if the documents to be introduced are bulky, or for other good cause, upon making previous arrangements with the Commission and all parties.

17. Parties may be permitted to present live rebuttal testimony only if it is in direct response to an issue raised for the first time in cross-examination or in the testimony of a public witness. Such testimony will be allowed only by leave of the Commission or presiding officer.

18. The Montana Rules of Evidence in effect at the time of the hearing in this Docket will govern at the hearing.

19. Any party to this proceeding responding to written discovery from any other party or the Commission shall have each person authoring any response(s) present and available as a witness at the hearing to introduce the response(s) and be available for cross-examination. Parties may waive objection(s) to introduction absent the author and the right to cross-examine. Upon Commission approval of parties' agreement to waiver, the person responding to data requests need not be present to testify and the responses may be introduced into the record. Written discovery (not including transcripts of depositions on oral examination) and data responses will be introduced at hearing only pursuant to applicable rules of evidence and through an appropriate witness subject to cross-examination, or by waiver of Parties and upon stipulation approved by the Commission.

#### Prehearing Motions and Conferences

20. Motions by any party, including motions to strike prefiled testimony and motions concerning any procedural matter connected with this Docket, shall be raised at the earliest possible time. Prehearing motions shall be submitted on briefs unless otherwise requested by a party and approved by the Commission. Upon a grant of oral argument, the requesting party shall notice it for hearing before the Commission.

21. The Commission staff may set a final Prehearing Conference to discuss settlement of any issues in the proceeding; simplification of issues; possibility of obtaining admissions of fact and documents; distribution and marking of written testimony and exhibits prior to the hearing; and other procedural matters as may aid in the disposition of the proceeding.

22. Nothing in this order shall be construed as limiting the legally established right of the Commission or its staff to inspect the books and accounts of Linda Vista at any time.

Prehearing Memorandum

23. Each party shall submit a prehearing memorandum. The memorandum shall contain a list of all issues uncontested and contested; witnesses to testify; and exhibits and discovery for introduction at hearing. Any special needs to accommodate witness sequence or scheduling should be identified in the prehearing memorandum. Commission staff shall file a limited prehearing memorandum identifying data or discovery responses to be introduced into the record and the witnesses necessary to sponsor the responses, or alternatively, to testify.

Done and Dated this 5th day of May by delegation to Commission staff as the Order of the Montana Public Service Commission.

BY THE MONTANA PUBLIC SERVICE COMMISSION

DAVE FISHER, Chairman  
NANCY MCCAFFREE, Vice Chair  
BOB ANDERSON, Commissioner  
DANNY OBERG, Commissioner  
BOB ROWE, Commissioner